



Alan Kirk
Vice President, Network Vendor Management

12020 Sunrise Valley Drive
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February 16, 2005

Janice Bryan
Account Manager
SBC Telecommunications, Inc.
311 S. Ackard, Rm. 630.08
Dallas, TX 75202-0281

Re: Request that SBC engage in good faith negotiations with Talk America pursuant to Section 252 of the Telecommunications Act of 1996 and General Terms and Conditions, Section 29.4, of the Interconnection Agreement between Talk America and SBC

Dear Janice:

On February 4, 2005, the FCC released the text of its Order on Remand in *the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 (*"Triennial Review Remand Order"*). The rules adopted in the *Triennial Review Remand Order* constitute a change in law under the current interconnection agreement ("ICA") between Talk America Inc. and SBC Telecommunications, Inc. Pursuant to Section 29.4 of that ICA, formal written notice is required to begin the process of entering into negotiations to arrive at an amendment to implement into the ICA the FCC's determinations in the *Triennial Review Remand Order* and prior FCC unbundling orders.

Accordingly, we hereby provide this notice, and request that SBC Telecommunications, Inc. begin good-faith negotiations under Section 252 of the 1996 Telecom Act directed toward reaching a mutually agreeable ICA amendment that fully and properly implements the changes that have occurred as a result of the *Triennial Review Remand Order*. Formal notice also is hereby being given for purposes of commencing negotiations on the rules adopted in the *Triennial Review Order* that were unaffected by the *Triennial Review Remand Order*. We intend that the negotiations will include the effect of section 271 of the 1996 Telecom Act on SBC

Telecommunications, Inc.'s ongoing obligation to provide access to certain unbundled network elements, as well as independent state authority to order unbundling.

Talk America notes that, pursuant to Section 29.4 of the current ICA and paragraph 233 of the *Triennial Review Remand Order*, the existing terms of the parties' ICA continue in effect until such time as the Parties have executed a written amendment to the ICA. As such, Talk America expects that both it and SBC Telecommunications, Inc. will continue to honor all terms and conditions of the current interconnection agreement until such time as a written amendment is executed.

The main company contact for these negotiations is:

Alan Kirk
12020 Sunrise Valley Drive Suite 250
Reston, VA 20191
Vice-President – Network Vendor Management
703-391-7567
akirk@talk.com

Please initiate the internal processes within SBC that will facilitate this request, and respond to this letter as expeditiously as possible with written acknowledgement of your receipt so that we may begin the negotiation process.

Further, in order to timely incorporate the *Triennial Review Remand Order's* rules into our revised interconnection agreement, the wire centers in your operating areas that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport and DS1 and DS3 loops must be identified and verified. Accordingly, Talk America hereby requests that SBC Telecommunications, Inc. provide all backup data necessary to verify the number of lines and the identity of the fiber-based collocators by end office for each end office that SBC Telecommunications, Inc. claims fall within each tier as those tiers are defined in the *Triennial Review Remand Order*. This data should be provided by no later than March 1, 2005.

Sincerely,

Alan Kirk
Vice-President – Network Vendor Management
Talk America Inc.

cc: Craig Pizer, Esq., Talk America
Page Miller, Talk America

Donovan, Joseph E.

From: BRYAN, JANICE J (SWBT) [jb7983@sbc.com]
Sent: Thursday, February 17, 2005 9:22 AM
To: Miller, Page
Cc: Kirk, Alan; Pizer, Craig
Subject: RE: Request for Negotiations

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I want to acknowledge the receipt of this email and I will work on your request and respond to your letter as soon as possible.

Janice

-----Original Message-----

From: Miller, Page [<mailto:pmiller@talk.com>]
Sent: Thursday, February 17, 2005 7:54 AM
To: BRYAN, JANICE J (SWBT)
Cc: Kirk, Alan; Pizer, Craig
Subject: Request for Negotiations

Janice,

Please see the attached request for negotiations of an amendment to our ICA pursuant to the 2/4/05 TRRO.

<<SBC TRRO Negotiation Ltr 02.16.05.DOC>>

Thanks,
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3/7/2005



SENT VIA FACSIMILE

November 19, 2003

Keisha Rivers - Notice Manager
SBC Telecommunications, Inc.
Four SBC Plaza, 9th Floor
311 S. Akard
Dallas, TX 75202-5398

Dear Sir/Madam:

I am in receipt of letters dated October 30 and November 14, 2003 from SBC addressed to several of the NuVox Communications operating companies. Those letters relate to change of law negotiations stemming from the FCC's recent Triennial Review Order ("TRO"). On behalf of each of the NuVox Communications operating companies that do business with SBC¹ (collectively, "NuVox"), I provide the following response.

Please be advised that NuVox is prepared to receive and begin its review immediately of any TRO-related SBC proposed interconnection agreement amendments. Thus, if SBC has finalized its proposed amendments at this time, NuVox would request that SBC convey the proposals immediately so that we might begin our review. If, however, by proposing a January 13, 2004 start date for negotiations SBC is indicating that it will not be prepared to provide its specific proposals to NuVox until that date, NuVox will be prepared to receive the proposals at that time or at any earlier time at which SBC may be prepared to share them.

Please also note that our willingness to engage in such negotiations does not reflect any form of acquiescence or agreement by NuVox regarding the appropriateness of the topics listed in SBC's October 30 letter, nor regarding any specific language proposals that SBC will offer during these negotiations. Among other things, NuVox fully reserves all of its rights to assert – after having been presented with, and thereafter having sufficient time to review, SBC's specific amendment proposals – that some or all of said proposals are precluded from amendment by the terms of their respective underlying interconnection agreements, or are otherwise inappropriate. Moreover, with specific reference to SBC's invocation of the *USTA* decision as providing an independent basis for change of law amendments, NuVox does not acquiesce in that assertion, inasmuch as the *USTA* decision

¹ These companies include: NuVox Communications of Arkansas, Inc., NuVox Communications of Illinois, Inc., NuVox Communications of Indiana, Inc., NuVox Communications of Kansas, Inc., NuVox Communications of Missouri, Inc., NuVox Communications of Ohio, Inc., and NuVox Communications of Oklahoma, Inc.


merely reversed the FCC's earlier *UNE Remand* Order, but – unlike the TRO – *USTA* did not itself establish specific rules related to unbundled network elements.

With respect to SBC's proposed 60-day period for negotiations, NuVox would state that it is impossible to make an intelligent estimate of the amount of time that would reasonably will be required to complete or exhaust negotiations for TRO-related change of law amendments without first seeing SBC's proposed amendments language. An initial review of SBC's specific proposals is required to make a threshold assessment of how faithfully the proposed language tracks the TRO decision with respect to areas covered by the interconnection agreements and, therefore, how smoothly the negotiations are likely to proceed. Therefore, NuVox is unable to agree to a pre-determined negotiation window. Nevertheless, I can assure you that NuVox will work cooperatively with SBC to complete negotiations as expeditiously as possible under the circumstances.

You have also proposed that we agree now that if negotiations fail to resolve all issues by the end of that 60-day window, then the matter would move immediately into dispute resolution processes. NuVox does not believe it is appropriate for the parties to lock themselves into that type of "one-size fits all" process at this time. In our view, what processes may be appropriate for resolving disagreements may differ depending on the nature and scope of the unresolved issues, and/or based on the relevant provisions of individual SBC-NuVox interconnection agreements or state-specific PSC rules. NuVox specifically reserves all of its rights and options regarding potential avenues of recourse in the event negotiations fail to resolve completely any differences between the parties.

Again, if SBC has specific proposed amendments that it is prepared and willing to share with NuVox at this time, I ask that you send them immediately to my attention so that NuVox can promptly begin its review. If you have any questions concerning this matter, please call me at (636) 537-5743 or contact me by email at ecadieux@nuvox.com.

Sincerely,



Ed Cadieux

VP, Regulatory & Public Affairs – Midwest Region

cc: Marilyn Patterson - SBC (via electronic mail)



July 22, 2004

Notices Manager
SBC Telecommunications, Inc.
Four SBC Plaza, 9th Floor
311 S. Akard
Dallas, Texas 75202-5398

Re: SBC's Notice of Issuance of a Post-*USTA II* Amendment to Existing Interconnection Agreement(s)

Dear Sir/Madam:

NuVox Communications of Illinois, Inc., and NuVox Communications of Indiana, Inc., ("NuVox") are in receipt of SBC's "Notice of Issuance of a Post-*USTA II* Amendment to Existing Interconnection Agreement(s)" dated July 13, 2004 ("July 13 Notice and Amendment"). Therein you request that if NuVox disagrees with the proposed Amendment (and with SBC's assertion that there is no need for negotiations with respect there to), it contact you immediately. This letter will satisfy that request by advising SBC that NuVox fundamentally disagrees with the Proposed Amendment and with the key points asserted by SBC in the Notice and the Proposed Amendment.

The July 13 Notice is unclear as to whether it purports to be "Change in Law" notification under the applicable interconnection agreements. NuVox presumes that SBC does not consider the July 13 Notice to be a Change in Law Notification related to *USTA II*, since at this point implementation of the *USTA II* decision is incomplete. That is, the court remanded portions of the Triennial Review Order ("TRO") with instructions for the FCC to "develop lawful unbundling rules" and the FCC has not yet issued permanent rules to replace those that were vacated by *USTA II*. Until it does so, no one knows what the post-*USTA II* state of the law will be with respect to the affected UNEs.¹ As you know, the FCC is under a continuing obligation to implement the unbundling provisions of the Telecommunications Act of 1996 and by all accounts is moving forward promptly to fulfill that requirement.

Since the July 13 Notice and Amendment does not purport to be a Change in Law notification under the applicable interconnection agreements², it can only be construed as

¹ Thus, NuVox rejects the apparent underlying premise of the July 13 Notice and Amendment that the proposed Amendment is necessary to comply with and implement the *USTA II* mandate.

² The fact that SBC has failed to cite any Change of Law provisions in the parties' interconnection agreements also supports the conclusion that the July 13 Notice and Amendment was not intended to be treated as a Change of Law amendment.

a proposal for an amendment to the interconnection agreements by mutual consent of the parties. Please be advised that NuVox declines to give its consent to the proposed Amendment because, among other reasons, it would be highly anti-competitive in its effect. Nevertheless, notwithstanding our rejection of the proposed Amendment, NuVox stands ready and willing to discuss in more detail these and any other matters of mutual interest. In that regard, I can be reached at your convenience at (636) 537-5743 or via email at ecadieux@nuvox.com.

Sincerely,



Edward J. Cadieux
Senior Regulatory Counsel